

RECORD OF DECISION

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

WISCONSIN ENVIRONMENTAL POLICY ACT COMPLIANCE ON THE ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED REST LAKE DAM OPERATING ORDER

In November, 2006, the Department of Natural Resources (Department) determined that an Environmental Assessment (EA) was needed, under s. 1.11, Wis. Stats., for a proposed new operating order on the Rest Lake Dam located in the Town of Manitowish Waters, Vilas County, Wisconsin. The Department prepared an EA on the project proposal as part of their responsibilities under the Wisconsin Environmental Policy Act (WEPA). This written decision completes that process and makes public the Department's WEPA decision.

FINDINGS OF FACT

The Department finds that:

- (1) The Department has reviewed and considered the EA, the comments on it, and other information provided by Xcel Energy, U.S. Geological Survey, other agencies, Great Lakes Indian Fish & Wildlife Commission, Chippewa Tribes, and the general public.
- (2) The Department has complied with the requirements of Chapter NR 150, Wisconsin Administrative Code, and Section 1.11, Wis. Stats., by:
 - a. Holding an initial scoping meeting on August 25, 2007 at the Manitowish Waters Town Hall to gather public input on issues to be addressed in the EA
 - b. Preparing an EA that identified major issues, including a description of the purpose and need for the proposal, a description of the proposal and affected environment, an evaluation of the probable environmental impacts of the proposal, and an evaluation of reasonable alternatives along with associated impacts
 - c. Sending a news release to local media on September 14, 2012 as well as notification to legislators, municipal officials, and other various entities on the established mailing list announcing availability of the EA and opportunity to comment on it
 - d. Providing a copy of the news release and EA on the Department's web-site and distributing hard copies to the local library and North Lakeland Discovery Center for public viewing
 - e. Distributing hard copies of the EA on request during the public comment review period
 - f. Receiving and considering comments on the EA through October 31, 2012. This comment period was further extended to December 31, 2012 to accommodate those reviewers who did not have sufficient time to comment during the original review period.
 - g. Preparing and distributing a comprehensive response package for comments received on the EA during the public review period
- (3) The proposed new operating order for levels and flows is not expected to result in significant adverse impacts (as defined in NR 150, Wis. Adm. Code) to air quality, surface or groundwater quality, flora or fauna including endangered/threatened species, historic/archaeologic resources, or Tribal treaty rights within the Ceded Territory.
- (4) Consistent with social, economic, and other essential considerations, the Department, in developing this EA, has analyzed reasonable alternatives (to the extent possible under existing statutory authorities) that would avoid or minimize environmental harm.

CONCLUSION OF LAW

The Department, under Chapter NR 150, Wisconsin Administrative Code and Section 1.11, Wis. Stats., has the responsibility to comply with WEPA and the authority to determine its compliance with the Act.

DECISION

The Department has complied with the requirements of WEPA, Section 1.11, Wis. Stats., and Chapter NR 150, Wisconsin Administrative Code, for the proposed operating order to establish new levels and flows on the Rest Lake Dam project. The Department has considered the EA as well as public, agency, and Tribal comments on the EA and the associated record to this point in the decision-making process. This compliance with WEPA applies to all subsequent Department decisions whose impacts are considered in the EA.

APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

This notice was provided pursuant to Section 227.48(2), Wis. Stats.

Dated at Spooner, Wisconsin this 10th day of May, 2013

STATE OF WISCONSIN
Department of Natural Resources
For the Secretary

By William H. Clark
William H. Clark
Supervisor, Environmental Analysis
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Department of Natural Resources